

REMARKS

Claims 1, 3 and 7 are pending in this application.

Claims 8-17 have been newly added herein. Applicants submit that support for these new claims can be found in the original claims and in the specification at, *inter alia*, page 6, lines 5-9; page 11, line 8 to page 12, line 23; and page 16, line 1 to page 17, line 7. Accordingly, no new matter has been added by these new claims.

Therefore, after entry of this amendment, claims 1, 3, and 7-17 will be pending in this application.

Applicants have previously provided information regarding copending U.S. applications that possibly contain subject matter similar to the present claims.

The outstanding rejections are addressed individually below.

1. *Rejection of claims 1, 3, and 7 under 35 U.S.C. § 103(a).*

Claims 1, 3, and 7 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Stovall in view of Feree as evidenced by Johnson *et al.*. Applicants respectfully traverse this rejection.

While Applicants do not acquiesce in the propriety of the rejection or the characterization of the references, Applicants provide the following nonlimiting remarks.

The Office Action states that the “language ‘that synthesize and assemble the layer of extracellular matrix in the absence of exogenous matrix components or synthetic member’ is being treated as a product-by-process limitation . . .” (Office Action, page 2) Applicants respectfully disagree.

Claim 1 is a method claim. Although this method claim necessarily includes some structure as part of the method, it is not a product-by-process claim. Applicants submit that claim 1 as currently presented is not a product-by-process claim. Furthermore, neither Stovall nor Feree nor Johnson *et al.* either alone or in combination disclose the claimed embodiments of the invention. By way of nonlimiting example, neither Stovall nor Feree nor Johnson *et al.* disclose a “cultured connective tissue construct that comprises an extracellular matrix layer and cultured fibroblast cells that synthesize and assemble the layer of extracellular matrix in the

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absence of exogenous matrix components or synthetic members.” Therefore, Applicants submit that claim 1 and claims 3 and 7 dependent thereon are not obvious over Stovall in view of Feree as evidenced by Johnson *et al.*.

Furthermore, new claims 8-17 are not disclosed by Stovall, Feree, or Johnson *et al.* either alone or in combination.

Therefore, these references do not teach, either alone or in combination, the claimed embodiments of the invention.

Applicants respectfully request that the rejection with regard to these claims be reconsidered and withdrawn.

CONCLUSIONS

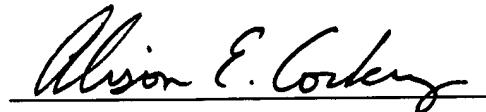
In view of the arguments set forth above, Applicants respectfully submit that the rejections contained in the Office Action mailed on March 4, 2005, have been overcome, and that the claims are in condition for allowance. It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment does not signify agreement with, or concession of, that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, unless specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. If the Examiner believes that any further discussion of this communication would be helpful, he is invited to contact the undersigned at the telephone number provided below.

Applicants herein request continued examination of the application according to 37 C.F.R. § 1.114. Please charge Deposit Account No. 08-0219 the \$395.00 fee set forth in 37 C.F.R. § 1.17(e) for this purpose.

Applicants enclose herewith a petition for a two month extension of time until August 4, 2005. Please charge our Deposit Account No. 08-0219 the \$225.00 fee for this extension of time.

No other fees are believed to be due in connection with this response. However, please charge any underpayments or credit any overpayments to Deposit Account No. 08-0219.

Respectfully submitted,



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